



THE FARM CREDIT COUNCIL

June 24, 2015

Ms. Laurie A. Rea
Director, Office of Secondary Market Oversight
Farm Credit Administration
1501 Farm Credit Drive
McLean, Virginia 22102-5090

RE: Proposed Rule– RIN 3052-AC89 / Federal Agricultural Mortgage Corporation/
Federal Register 80, No. 58 (March 26, 2015) 15931

The Farm Credit Council (Council), on behalf of its membership, appreciates the opportunity to comment on the Farm Credit Administration's (FCA) Proposed Rule regarding Federal Agricultural Mortgage Corporation (Farmer Mac) board governance and standards of conduct requirements that was published in the March 26, 2015 *Federal Register*. The comments that follow were developed after soliciting input from all our members (the "System"). These comments are also submitted in accord with the Policy Resolutions adopted by our members.

We are aware that some institutions of the System, including System stockholders in Farmer Mac will be submitting their own comments, and we urge the FCA to consider their views as well as those expressed herein.

GENERAL COMMENTS

The background section of the proposed rule identifies Farmer Mac as an institution of the FCS, regulated by FCA through its Office of Secondary Market Oversight, with a mandate to create a secondary market for specific types of loans. It notes that Farmer Mac "has a public policy purpose embedded in its corporate mission." We strongly support the FCA's view that Farmer Mac, as a government sponsored enterprise (GSE) with this public policy, is not like state-chartered, stockholder owned companies, who seek to maximize returns to investing stockholders.

As we noted in our comments to the earlier Advanced Notice of Proposed Rulemaking (ANPRM) on this subject, The Farm Credit Act (the "Act") did not mandate creation of an investor class of stockholders, which is the model under which Farmer Mac now operates. This model has been widely criticized as a contributing factor in the failure of two other GSEs, Fannie Mae and Freddie Mac, and the financial crisis of 2007-2008.

As a GSE, the potential for conflict between the entity's public policy mission and investor goals for stock appreciation are inherent. We believe that Farmer Mac's

ownership model, coupled with its practice of compensating directors and employees with stock and stock options exacerbates that potential conflict. As has been noted with other GSEs, the risks associated with seeking short term gains, and foregoing opportunities to retain earnings and to build capital have caused significant problems. Whatever merits may exist for an investor class of stockholders seeking return on investment, FCA should immediately act to minimize the conflict of interest that exists by prohibiting compensation to directors and employees of any form of compensation that includes stock or stock options.

To the extent that Farmer Mac is permitted to continue with an investor class of stockholders seeking financial returns through increased stock prices (regardless of whether directors and employees receive compensation through stock or stock options), it is of paramount importance they operate pursuant to a strong risk management program. We support the requirements contained in Section 653.2 and 653.3. We encourage FCA to also include specific capital requirements similar to the Basel III framework that other Federal financial regulators are utilizing with other financial institutions. Strong capital standards will serve to reduce the potential for conflict between the public policy mission and any goal to increase returns to investors.

BOARD GOVERNANCE

In the Act, Congress specifically authorized and directed that Farmer Mac have a representational board of directors, with each class of stockholders represented by directors elected from their ownership groups. FCA should not adopt regulations that have the potential to frustrate the authority of individual stockholders to vote for, and elect directors who meet statutory eligibility requirements.

INDEMNIFICATION

In requiring policies and procedures for indemnification, FCA should clarify that Farmer Mac is authorized, if it so chooses, to indemnify its directors. Any such indemnification should be primary, and be available to all directors equally, regardless of class. It should be up to any director's affiliated Class A or B stockholder to determine if it chooses to provide any additional indemnification, and it should be secondary to any indemnification from Farmer Mac. While we do not object to the requirement that notification of any indemnification payment be given to FCA, it should be clear that there is no prior approval requirement before any such payment is made.

DIRECTOR, OFFICER, EMPLOYEE, AND AGENT RESPONSIBILITIES

Consistent with our other comments regarding the representative nature of Farmer Mac directors, FCA should clarify that the provisions of Section 651.24(c) do not apply to information provided by a director to the director's own stockholders, consistent with the director's obligations as the representative of those stockholders.

DIRECTOR FIDUCIARY DUTIES AND INDEPENDENCE

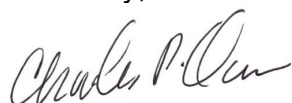
We encourage the FCA to clarify through regulation that both Class A and Class B directors have a fiduciary duty to their respective class of stockholders, and that such duty to represent their interest is not a breach of their independence.

As we noted in our comments to the ANPRM, we are extremely concerned with the continuing lack of transparency regarding Farmer Mac's limited status as an institution of the FCS. As FCA has noted, the Act identifies Farmer Mac as an institution of the FCS. The Act also makes clear that Farmer Mac is a separate Government Sponsored Enterprise ("GSE") and, as such, the FCS has no explicit or implicit financial responsibility or organizational connection with Farmer Mac. In fact, the Act is explicit in creating this separation to fundamentally structure Farmer Mac as an entity that provides liquidity to all lenders. Casual references that link Farmer Mac to the FCS potentially create significant confusion in the financial and credit markets possibly resulting in misunderstandings regarding Farmer Mac's true financial situation and status. This may be further exacerbated by the System's partial ownership of Farmer Mac. System institutions have a very legitimate concern that any financial weakness of Farmer Mac would create a reputation risk for the System.

Conclusion

We appreciate the opportunity to comment on the Proposed Rule on Farmer Mac Standards of Conduct. Our members are significant Class B voting shareholders in Farmer Mac, and care deeply that Farmer Mac operate in a manner that fulfills its public policy mission, and that does not expose the System to undue risk.

Sincerely,



Charles P. Dana
Sr. V. P., General Counsel